

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA**  
Alexandria Division

In re:

REDEMCIION C. CANLAS and  
EDUARDO R. CANLAS,

Debtors.

Case No. 08-10688-RGM  
(Chapter 13)

**MEMORANDUM AND  
ORDER ALLOWING CLAIM NO. 2 OF SUNTRUST BANK**

THIS CASE is before the court on the debtors' objection to proof of claim number 2 filed by SunTrust Bank. The debtors object to the proof of claim asserting that it is not supported by sufficient documentation. There are no attachments to the proof of claim. In addition, the debtors assert that the bank "ignored debtors' pre-petition demand for mediation as provided for in deed of trust which forms the basis of the claim." The debtors request that the proof of claim be disallowed; that the bank be precluded from filing any amended, modified, or substitute claim; that the debtors be awarded their legal fees of \$500.00; and that the debtors be awarded such further relief as may be appropriate.

The debtors filed a notice of the objection but did not set the matter for a hearing. The bank did not respond.

The objection based on the lack of documentation is not a sufficient basis to disallow the proof of claim. While the proof of claim form requires documentation, the failure to provide documentation does not mean that the debtors do not owe the money to the creditors. In fact, the debtors scheduled SunTrust Bank stating that it held an unsecured claim arising out of a deficiency from a foreclosure sale. It asserts that it has set offs against the deficiency claim but does not

identify the set off in the schedules.

It is unclear whether a failure to enter into mediation in this case is a sufficient basis to disallow a proof of claim. Failure to enter into mediation, if contractually required, may result in damages, but it does not generally absolve the debtors of liability from the underlying obligation. For these reasons, it is

ORDERED that the objection to proof of claim number 2 of SunTrust Bank is overruled.

DONE at Alexandria, Virginia, this 21<sup>st</sup> day of October, 2008.

/s/ Robert G. Mayer  
Robert G. Mayer  
United States Bankruptcy Judge

Copy electronically to:

Randall J. Borden

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